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38779 7590 08/07/2009 SENNIGER POWERS LLP (MSFT) 100 NORTH BROADWAY 17TH FLOOR ST. LOUIS, MO 63102				
EXAMINER				
CHANKONG, DOHIM				
ART UNIT		PAPER NUMBER		
2452				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspatents@senniger.com

Office Action Summary

Application No.

10/717,880

Applicant(s)

ORVENDAL ET AL.

Examiner

DOHM CHANKONG

Art Unit

2452

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-15 and 22-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-15, and 22-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is in response to Applicant's amendment filed on 4/16/2009. Claims 1, 11, 22-24, and 26 are amended. Claims 9 and 16-21 are cancelled. Accordingly, claims 1-8, 10-15, and 22-29 are presented for further examination.
2. This action is a final rejection.

Response to Arguments

3. Applicant's arguments with respect to claims 1-8, 10-15, and 22-26 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the

reference is determined under 35 U.S.C. 102(c) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1-6, 10-15, and 22-25 are rejected under 35 U.S.C. 102(c) as being anticipated by Horvitz et al, U.S. Patent No. 6,980,993 ["Horvitz"].

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

5. Horvitz was previously cited by the examiner in the PTO-892 filed on 11/27/2007.

6. As to claims 1 and 10, Horvitz discloses a method for processing a notification, said method comprising:

accessing, by a user device, a data packet representing the notification, said data packet having a plurality of content type attributes each defining one multimedia component of a plurality of multimedia components to be rendered by the user device [column 36 «lines 49-52» | column 37 «lines 21-23»: types of content include text, HTML, graphics, video, audio | column 38 «lines 9-15»: multiple components], each content type attribute having a content data attribute

associated therewith storing non-rendered content data [column 36 «lines 52-55» | column 37 «lines 21-23»: “content *to be rendered*” implies that the content has not been rendered yet];

determining a single fidelity measure of the user device, said fidelity measure singularly indicating the total capability of the user device to render the plurality of multimedia components of the notification [column 38 «lines 23-33»];

determining a fidelity tag for each content data attribute indicating a preference order for the non-rendered content data of the each content data attribute [column 38 «lines 28-33»];

selecting one of the plurality of content type attributes for processing by the user device based on the fidelity measure, wherein the user device executes an application, said application performing an action based on the non-rendered content data associated with the selected content type attribute, and wherein the user device renders the notification in accordance with the fidelity measure and fidelity tag [column 35 «line 17» to column 36 «line 55»: summarizing the rendering of particular content within a notification based on the fidelity measure (capability of the devices) and the fidelity tag (preferences for rendering particular content)].

7. As to claims 2 and 12, Horvitz discloses defining a filtered data packet including the content type attribute and content data attribute [column 12 «lines 22-28»: filtered notifications | column 35 «lines 49-52» | column 36 «lines 21-25.: notification includes content type attribute, (text, text/audio, text/graphics) and content data].

8. As to claims 3 and 13, Horvitz discloses sending the filtered data packet to a data communication network for processing [column 32 «lines 1-25»: sending notifications to a network | column 37 «lines 17-33»].
9. As to claims 4 and 14, Horvitz discloses effecting the delivery of the filtered data packet via a data communication network to the user device for processing [column 32 «lines 1-25»: sending notifications to a network | column 37 «lines 17-33»: notifications sent to devices for rendering].
10. As to claims 5 and 17, Colson discloses that a data packet comprising a device hint attribute storing a characteristic value representative of a specific user device, said device hint attribute being associated with one of the content type attributes, and wherein selecting one of the content type attributes comprises selecting one of the content type attributes to process based on the determined characteristic of the user device and the characteristic value stored in the device hint attribute [column 33 «lines 65-67»: “device specific hints” include device policy | column 35 «lines 49-56»].
11. As to claim 6, Horvitz discloses receiving the data packet via a data communication network from a content provider [Figure 5 «items 502»].

12. As to claims 11 and 15, they merely disclose a computer-readable media having components that execute the methods of claims 1 and 6, respectively. As such, claims 11 and 15 are rejected for at least the same reasons set forth for claims 1 and 6, respectively.

13. As to claim 22, Horvitz discloses a system for processing a notification comprising a plurality of multimedia components, said system comprising:

a first memory area to store routing preferences of a user [column 2 «lines 39-47» | column 35 «lines 49-56»];

a second memory area to store a single fidelity measure of a computing device associated with the user, said fidelity measure singularly indicating the total capability of the user device to render the plurality of multimedia components of notification [column 38 «lines 16-28»];

an alerts service adapted to receive a data packet from a content provider and deliver the received data packet to the computing device based on the routing preferences stored in the first memory area [column 38 «lines 54-55»: routing information based on user preferences], the fidelity measure stored in the second memory area [column 38 «lines 16-33»], wherein said received data packet includes non-rendered content for use by an application executing on the computing device [column 37 «lines 21-23»: content *to be rendered*], and wherein the user device renders the notification in accordance with the fidelity measure [column 37 «lines 34-47» | column 38 «lines 16-33»].

14. As to claim 23, Horvitz discloses said first memory area storing an ordered list of one or more computing devices of the user [column 33 «Table 1A»: “Routing and alerting hints” describe delivery routing and the device sequence to follow when delivering notifications].

15. As to claim 24, Horvitz discloses said second memory area to store the device characteristic identifying a processing capability of the computing devices including one or more of the following: hypertext markup language, text, graphics, extensible markup language, audio, and video [column 37 «lines 21-23»].

16. As to claim 25, Horvitz discloses the non-rendered content comprises extensible markup language data [column 32 «lines 23-25»].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being obvious over Horvitz in view of Warsta et al, U.S Patent No. 2004/0181550 [“Warsta”].

The applied reference Horvitz has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing

under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention “by another”; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). This rejection might also be overcome by showing that the reference is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under 35 U.S.C. 103(a). See MPEP § 706.02(I)(1) and § 706.02(I)(2).

18. Warsta was previously cited by the examiner in the PTO-892 filed on 11/27/2007.

19. As to claim 7, Horvitz does not expressly disclose selecting the content data attribute having content data with the longest length that fits on a display associated with the user device. In a similar field of invention, Warsta is directed to providing a system that retrieves and delivers appropriate content to a device based on the device’s capabilities [0009].

Like Horvitz, Warsta discloses a packet having a content type attribute having a content data attribute that stores content data [Figures 4 and 5]. Warsta expressly discloses selecting the content data attribute having content data with the longest length that fits on a display associated with the user device [0051, 0030, 0056, 0057 where : Warsta discloses selecting content data based on the length (the data’s memory size or “maximum size”) of the

content data and whether the length is appropriate for the user device. “Longest length” is interpreted as referring generally to the physical characteristics of the content data. Warsta’s content selection based on the physical attributes reads on this interpretation of “longest length”].

It would have been obvious to one of ordinary skill in the art at the time of Applicant’s invention to have modified Horvitz’s system with Warsta’s content selection functionality. Warsta discloses that selecting content data based on length (memory size or actual physical size) allows users to receive copies of content that is most appropriate for their particular device’s capabilities [0009]. Based on Warsta, one of ordinary skill would have been motivated to improve upon Horvitz’s content delivery.

20. As to claim 8, Horvitz does not expressly disclose truncating content data wherein said truncating occurs responsive to a size restriction associated with a display of the user device. However, such functionality was well known in the time of Applicant’s invention as evidenced by Warsta. Warsta discloses truncating content data wherein said truncating occurs responsive to a size restriction associated with a display of the user device [0028 where : Warsta discloses reducing an image’s resolution to fit on the device’s display].

It would have been obvious to one of ordinary skill in the art to have modified Horvitz’s system with Warsta’s data truncating functionality. One would have been motivated to modify Horvitz as Warsta’s functionality enables all users to receive content data that is specifically adapted to the capabilities of their devices [see Warsta, 0030]. Such a modification improves Horvitz’s content delivery system by enabling the appropriate content to be delivered to users.

21. Claims 26-29 are rejected under 35 U.S.C. §103(a) as being unpatentable over Horvitz, in view of Montagna et al, U.S. Patent Publication No. 2004/0242322 ["Montagna"].

22. Montagna was previously cited by the examiner in the PTO-892 filed on 6/5/2008.

23. All citations are to Horvitz unless otherwise noted.

24. As to claims 26 and 29, Horvitz as modified by Montagna discloses a method for processing a notification to be delivered to a game console via a data communication network, said method comprising:

accessing, prior to delivery of the notification, a data packet representing the notification, said data packet having a plurality of content type attributes [column 36 «lines 49-52» | column 37 «lines 21-23»], each content type attribute having a content data attribute associated therewith storing non-rendered content data [column 36 «lines 52-55» | column 37 «lines 21-23»: "content to be rendered" implies that the content has not been rendered yet], relating to the set up of an online game [*Montagna*, 0029, 0053];

determining a fidelity measure of a game console based on a capability of the game console to process content data [column 38 «lines 23-33»: Horvitz teaches a PC which is a game console];

selecting one of the plurality of content type attributes for processing by the game console based on the determined fidelity measure [*Li*, column 2 «lines 50-52»: one of Li's goals

is to select the best representation of content based on the capability of a device | column 8 «lines 43-46»: selecting the best representation based on the fidelity measure of the content]; and

sending the notification to the data communication network as a function of the selected content type attribute to provide content data formatted for the game console, wherein the game console executes an application, said application performing an action based on the non-rendered content data associated with the selected content type attribute, and wherein the user device renders the notification in accordance with the fidelity measure [column 35 «line 17» to column 36 «line 55»: summarizing the rendering of particular content within a notification based on the fidelity measure (capability of the devices) and the fidelity tag (preferences for rendering particular content)].

Horvitz does not expressly disclose that the non-rendered content relates to the set-up of an online game. However, such a feature was well known in the art at the time of Applicant's invention. For example, Montagna discloses non-rendered content relating to the setup of an online game [0029, 0053]. It would have been obvious to one of ordinary skill in the art to have modified Horvitz's system to include Montagna's teachings of including online-game related non-rendered content data. One would have been motivated to modify Horvitz to be useful for gaming applications as taught by Montagna [0004].

25. As to claim 27, as it does not teach or further define over previously claimed limitations, it is rejected for at least the same reasons set forth for claim 6.

26. As to claim 28, Horvitz as modified by Montagna discloses:

defining a filtered data packet including the selected content type attribute and content data attribute associated therewith [see rejection of claim 2]; and

sending the filtered data packet to the data communication network to provide content data formatted for the game console [column 37 «lines 17-33»].

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOHM CHANKONG whose telephone number is (571)272-3942. The examiner can normally be reached on Monday-Friday [8:30 AM to 4:30 PM].

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on 571.272.3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dohm Chankong/
Primary Examiner, Art Unit 2452